



HOUSE OF REPRESENTATIVES

HB 2553

insurance; risk retention groups

Prime Sponsor: Representative Fann, LD 1

DP Committee on Insurance

X Caucus and COW

House Engrossed

OVERVIEW

HB 2553 establishes the rules and regulations for state-licensed risk retention groups.

PROVISIONS

1. Requires the board of directors (BOD) of a risk retention group to have a majority of independent board directors.
2. Stipulates if a risk retention group is a reciprocal risk retention group:
 - a. The attorney-in-fact must adhere to the independence of operation and governance standards, and
 - b. Services providers must contract with the group and not the attorney-in-fact.
3. Specifies the BOD must affirmatively determine the board director has no material relationship with the risk retention group in order for the director to qualify as independent.
 - a. The BOD must annually inform its domestic regulator of the determination.
4. Asserts any person that is an owner of or a subscriber in the group, or is an officer, director or employee of an owner is considered independent unless some other position constitutes as a material relationship.
5. States that a material service provider's contract with the group is limited to five years.
 - a. Any contract or renewal requires the majority approval of the independent board directors.
6. Authorizes the BOD to cancel any service provider, audit or actuarial contracts at any time for cause after providing adequate notice pursuant to the contract.
7. Deems the service provider contract material if the amount is to be paid for that contract is greater than or equal to 5% of the group's annual gross written premium or 2% of its surplus, whichever is greater.
8. Outlines the process to enter into a service provider contract that is a material relationship.
9. Instructs the BOD to adopt a written policy in the plan of operation as approved by the board that prescribes the BOD's duties.
10. Requires each group to have an audit committee composed of at least three independent board members.
11. Allows a non-independent board member to participate in the committee if invited by a member but is not considered a member of the committee.

12. Requires the audit committee to have a written charter that defines the committee's purpose and provides a list of minimum duties.
13. Authorizes the director of the Department of Insurance (DOI) to waive the requirement to establish an audit committee provided the group shows that it is impracticable and the BOD is able to fulfill the requirements of the audit committee.
14. Directs the BOD to adopt and disclose governance standards and make the information available by electronic means and available to members and insureds on request.
 - a. Outlines the contents to be included in the information.
15. Instructs the BOD to adopt and disclose a code of business conduct and ethics for board directors, officer and employees, and disclosure of any waivers to the code under specified reasons.
16. Requires the captive manager, president or chief executive officer of the group to immediately notify the domestic regulator, in writing, of any material noncompliance with the group's governance standards.
17. Defines pertinent terms.
18. Makes technical changes.

CURRENT LAW

[Statute](#) defines *risk retention group* as a corporation or other limited liability association formed in any state whose primary activity consists of assuming and spreading all or any portion of the liability of its group members.

[Pursuant to A.R.S. § 20-2402](#) a risk retention group who is licensed and chartered in this state must submit an acceptable feasibility study to DOI before offering any kind of liability insurance in this state or in any other state. Any application for a risk retention group received by DOI must be provided to the National Association of Insurance Commissioners.

[Pursuant to A.R.S. § 20-2403](#) before offering insurance in this state, risk retention groups not chartered and licensed in Arizona must provide a statement identifying the state or states in which the group is chartered and licensed as a liability insurance company and make available any required information and documentation to DOI. Additionally, the risk retention group must provide a statement of registration which designates the director as its agent for the purpose of receiving service of legal documents.